



ORDER

Order of the Authority dated 09.05.2023 in various complaints against project Mahira Homes- 104, Gurugram	Cr. No. RERA-GRG-1304-2023 Misc. application no. 84 of 2023
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- This order shall dispose of the following complaints:
 - REA-GRG-1304-2023 titled as Mahira Homes 104 Buyers Welfare Association V/s Czar Buildwell Pvt. Ltd. dated 17.03.2023.
 - Misc. application no. 84 of 2023 dated 29.03.2023.

CORAM:

Shri Vijay Kumar Goyal	Member
Shri Ashok Sangwan	Member
Shri Sanjeev Kumar Arora	Member

APPEARANCE:

Sh. Abhay Jain (Advocate)	Complainants
Sh. J.K. Dang (Advocate)	Respondent

BRIEF OF THE PROJECT

- The project was registered by the Authority as per the following details:

Sr. No.	Particulars	Details
(i)	Name of the project	Mahira Homes 104
(ii)	Name of the promoter	M/s Czar Buildwell Pvt. Ltd.
(iii)	Area of the project	10.44375 acres
(iv)	Location of the project	Sector 104, Gurugram
(v)	Nature of the project	Affordable group housing



(vi)	Number of units	1483 Residential Units and 224 Commercial Units
(vii)	Master account no. (100% account)	921020039865980
(viii)	Separate RERA account no. (70% account)	921020039939010
(ix)	Free account (30% account)	921020039084437
(x)	Contact e-mail address	info@mahiragroup.com

3. The above project was registered after the grant of license to develop affordable group housing colony admeasuring 10.44333 acres to following entities in collaboration with M/s Czar Buildwell Pvt. Ltd. by Director Town & Country Planning namely:

- I. Sh. Bhoop Singh S/o Sh. Tekchand
- II. Sh. Nand Kishor S/o Sh. Tekchand
- III. Sh. Narender S/o Sh. Tekchand
- IV. Sh. Ramesh Chand S/o Shri Ram
- V. Sh. Kuldeep S/o Shri Ram
- VI. Sh. Pardeep Kumar S/o Shri Ram
- VII. Sh. Satbir Singh S/o Shri Ram
- VIII. Sh. Manoj Kumar S/o Shri Ram
- IX. Smt. Bhagwani Devi Wd/o Sh. Hoshiyar Singh
- X. Sh. Hoshiyar Singh S/o Sh. Bal Kishan
- XI. Sh. Bijender Singh S/o Sh. Bal Kishan
- XII. Sh. Surinder S/o Sh. Bal Kishan
- XIII. Sh. Jai Parkash S/o Sh. Bal Kishan
- XIV. Sh. Kaptan S/o Sh. Bal Kishan
- XV. Sh. Anil Kumar S/o Sh. Om Parkash
- XVI. Sh. Manoj Kumar S/o Sh. Om Parkash

4. However, due to various grave violations the Director Town & Country Planning vide its order dated 17.05.2022 had blacklisted the developer company, its directors, shareholders, and other authorized signatories from grant of new license under the provisions of Act 8 of 1975 in future. The order reads as follows:

"Whereas, on account of committing various grave violations in license no. 128 of 2019, 31 of 2019, 24 of 2020 and 66 of 2021 dated, granted for development of affordable group housing colony in Sector-63A, 103, 95 & 104, Gurugram, forged and fabricated bank guarantees and also forged signatures of the bank officials/officer on the bank guarantees which was submitted by CZAR Buildwell Pvt. Ltd., at the time of grant of license No. 66

of 2021 and replacement the old bank guarantees in lieu of fresh Bank Guarantees submitted in the three other licenses as indicated above which were issued to Mahira Buildtech Pvt. Ltd. and CZAR Buildwell Pvt. Ltd. It has been accordingly decided to blacklist the developer company i.e. Mahira Buildtech Pvt. Ltd. & CZAR Buildwell Pvt. Ltd., its Directors, shareholders and other authorized signatory from grant of any new license under the provisions of Act 8 of 1975 in future. Accordingly, all concerned are hereby directed not to process any application of above said company, its Directors and shareholders for grant of license under the Act *ibid.*”

5. Keeping in view the above, the Authority initiated suo-motu proceedings against the promoter in suo-motu complaint no. RERA-GRG-2645-2022 dated 28.05.2022 and issued directions to M/s Czar Buildwell Pvt. Ltd.

The directions issued vide order dated 22.08.2022 are reproduced below for ready reference:

1. *On perusal of the comments and final proposal / recommendations of the forensic auditor and expert consultant, it is observed that the interest of the allottees who have invested in the affordable group housing project with the dream of having a home will be served only if the construction work is resumed immediately.*
2. *The DTCP, Haryana vide its order dated 21.07.2022 ordered withdrawal of its earlier order dated 17.05.2022 regarding blacklisting of the firms i.e. M/s Czar -Buildwell Pvt. Ltd. and M/s Mahira Buildtech Pvt. Ltd. subject to confirmation of the following-*
 - i. *The colonizer shall follow construction-linked payment in all these are projects and shall not demand any additional instalment till proportional constructions against payments already received by it are completed at the site to the satisfaction of STP, Gurugram.*
 - ii. *The cancellation of allotment made by the colonizer against non-payment by allottees on account of disproportionate demands made by it shall be withdrawn by the colonizer within a week and an ATR in this regard shall be filed with STP, Gurugram.*
 - iii. *The colonizer shall install a signboard at the site showing the detail of flats mortgaged in favour of DTCP.*
3. *The forensic auditor and expert consultant has submitted its final proposal and recommended to the authority to de-freeze the bank account subject to terms and conditions as doing so shall facilitate the re-depositing of the misappropriated funds into the project account, which shall enable re-starting the construction work of the project.*
4. *In view of the recommendations by the forensic auditor and the expert consultant and considering the sentiments of the allottees who are awaiting to get their real estate units, the authority allows de-freezing of bank accounts of M/s Czar Buildwell Pvt. Ltd. and M/s Mahira Buildtech Pvt. Ltd. which were earlier freed by the authority in view of the blacklisting of the promoter companies by DTCP, Haryana, subject to all terms and conditions as recommended by the forensic auditor and expert consultant and in particular, but not limited to the following conditions.*
 - i. *The promoter shall bring back the unauthorised withdrawn amount.*



- ii. *The promoter shall follow construction-linked payment in the project and shall not demand any additional instalment till proportional constructions against payments already received by it are completed at the site to the satisfaction of STP, Gurugram as already directed by the licensing authority i.e, Director, Town and Country Planning, Haryana.*
 - iii. *The promoter is directed that withdrawal from the separate account shall have to be in proportion to the percentage of completion of the project after it is certified by an engineer, an architect, and a chartered accountant that the withdrawal is in proportion to the percentage of completion of the project.*
 - iv. *The promoter is directed to deposit a hundred percent of the amounts realized for the real estate project from the allottees, from time to time, in a separate RERA account maintained in a scheduled bank to cover the cost of construction and the proportionate land cost and shall be used only for that purpose.*
 - v. *The promoter is directed to deposit the loan made to its group company and associates and other non-project-related withdrawals to the RERA Account within six months.*
 - vi. *The promoter to enter into an agreement for sale with the allottees within three months as prescribed in the Maryana Real Estate (Regulation and Development) Rules, 2017, and amended as per requirements and approved by the authority.*
 - vii. *The promoter is directed that any non-project-related expense shall not be made from the RERA Account.*
 - viii. *The commercial area of the project is attached by the authority and the promoter is restrained to any sale of the commercial area till further orders as a guarantee to complete the project.*
 - ix. *In addition to tiling quarterly progress reports and audited annual statements of accounts of the project, the promoter shall also submit a monthly progress report of the project Mahira Homes 104 (hardcopy) to Sh. I.S. Sindhu, Executive Engineer (Monitoring), or any other designated officer if appointed.*
5. *The terms and conditions shall be binding on all concerned and any act of noncompliance or violation shall attract strict penal consequences as per law.*

Further, as per the comments of the forensic auditor and expert consultant, the promoter has violated provisions of section 4(2)D(D) of the Act, for which penal proceedings be initiated against the promoter company. Accordingly, the planning branch is to issue a show cause notice to the promoter company Le, M/s Czar Buildwell Pvt. Ltd. as to why a penalty under section 60 of the Act of 2016 be not imposed on the promoter company and defaulting directors for violation of section 4(2)00(D).

6. Further, a complaint (RERA-GRG-1304-2023) was filed by Mahira Homes 104 Buyers Welfare Association on 17.03.2023 along with a miscellaneous application received therein (MA No. 84-2023) which were clubbed with the suo motu complaint no. RERA-GRG-2645-2022 on the request of the applicant in the proceedings of the hearing dated 09.05.2022.

7. Since, the proceedings of Suo-motu complaint no. RERA-GRG-2645-2022 are still going on, this order is being passed specifically with respect to the relief sought vide complaint no. RERA-GRG-1304-2023 and MA No. 84-2023.

BRIEF OF THE COMPLAINT NO. RERA-GRG-1304-2023

The complainant association has made following submissions in the complaint:

8. That the complainant association, Mahira Homes-104 buyers welfare association is a registered society bearing registration no. HR 018 2022 02569 issued by the District Registrar, Firms and societies, Gurugram on 18.10.2022 under the Haryana Registration and Regulations of Societies Act, 2012 which was formed to safeguard the interests of the allottees of the affordable group housing project "Mahira Homes 104", Gurugram.
9. That the above said project is being developed by Czar Build well Private Limited on a 10.44375 acre land. The project comprises of 1486 residential units and 224 commercial units. As, per the affordable policy 2013, the project was to be completed within four years from the approval of building plans or the grant of environment clearance, whichever occurs later.
10. That the applicants were required to deposit an additional 20% amount of the total cost of the flat at the time of allotment of the flat. The respondent developer accumulated a total amount Rs.59,96,53,616/- from 1414 allottees till 10.06.2022.
11. That the respondent developer predominantly sold apartments and executed one sided builder buyer agreement. The complainant objected to the unjustified clause of the agreement and requested to adhere to the provisions prescribed in the Act of 2016.
12. Further, on 17.05.2022 the DTCP issued an order blacklisting the Developer company, its director, shareholders and other authorized signatories from obtaining licenses under the provisions of Act 8 of 1975 in future, following which an FIR was also lodged against the respondent developer on 18.05.2022 for submitting forged bank guarantees.
13. That HRERA Authority, Gurugram following the blacklisting of respondent developer initiated a Suo-moto inquiry against the respondent due to concerns about potential violations of the Act, 2016. A preliminary site enquiry revealed construction of only about 2%, not commensurate with the funds withdrawn from the bank accounts. Additionally, the promoter failed to provide necessary project progress reports or obtain required certificates, as mandate by the Authority.
14. Further, HARERA Gurugram vide proceedings dated 13.02.2023 in Suo- moto complaint no. 2645-2022 also directed the respondent not to cancel any allotment of the allottee where initial allotment price (25%) had already been received by the respondent. However, the respondent is still seeking further instalments of 25%

- from the allottees and is threatening to clear the outstanding dues failing which the allotment will be cancelled without any notice.
15. That the complainant association had made numerous visits to the office of respondent and submitted various letters of representation, appealing to complete the construction work as per the construction link payment policy. But the respondent has failed to complete the proportionate construction against the payment already received from the allottees.
 16. That the promoter 1/ Landowner and others regained the possession of the land on 18.03.2023 which resulted in dispute between the promoter 2 and promoter 1. However, the allottees associated with the complainant association made their payments to promoter no. 2.
 17. That the allottees have suffered an irreparable financial loss which cannot be calculated in terms of money so the complainant association is seeking direction from the Authority to direct the respondent developer to conduct construction activity and not to cancel allotment.

The complainant sought following reliefs:

- I. Direct the respondent developer not to cancel any units of the allottees who have paid two instalments; 5 % at the time of booking and 20% at the time of draw, as per the Haryana Affordable Housing Policy, 2013, as presently (march, 2023), just excavation works are being carried out at the site, whereas the Environment Clearance was granted to the Respondent Developer on 27.04.2022, and first draw was conducted by the respondent developer on 03.12.2021.
- II. Direct the Respondent Developer not to raise further instalments from the allottees till the proportionate construction is completed at site.
- III. Direct the Respondent Developer to seek payment from the allottees as per the Construction Linked Payment Plan as per amendment in the Affordable Housing Policy, 2013 via memo No. PF-27-III/2021/28851 dated 16.11.2021 issued by the Town and Country Planning Department and as per the HARERA's order dated 22.08.2022.
- IV. Direct the Respondent Developer to conduct construction at the project site, Mahira Homes 104 in full swing, engaging large number of work force, and not at a snail's speed, which is going on currently.
- V. Direct the Respondent Developer to execute the Builder Buyer Agreement with all the allottees as prescribed in the Real Estate (Regulation and Development) Act, 2016 and Rules, 2017.

- VI. Develop/ evolve a mechanism/system/method to complete the project, Mahira Homes 104, Sector 104, Gurugram by involving the complainant association, HARERA, Gurugram, Government Authorities like Haryana Shehri Vikas Pradhikaran (HSVP) or Housing Board, Haryana or HSIIDC or the Town and Country Planning Department or any Government institute/ body/ authority or any other private developer which may be helpful in completing the project, at the costs and expenses of the Respondent and direct the Respondent to reimburse all extra costs and expenses that the allottees/ members of the complainant association may incur in completing the remaining development works, and in addition, pay to the allottees/ members of the complainant association the delay possession interest that is payable to the Allottees under section 18 of the Act, 2016, read with Rules 15 and 16 of the Rules, 2017.
- VII. Direct respondent to take back around 38 crores given to its sister concerns and related parties, Mahira Buildtech Pvt. Ltd., Mahira Homes Pvt. Ltd., Axiom Properties Pvt. Ltd., Aranya Infrastructure Pvt. Ltd., Project MH 63A and Mr. Sikander Singh and deposit this amount into the Escrow account.
- VIII. Direct the Respondent Developer to open an escrow account and deposit around 38 crores with signatory of representatives of the Hon'ble HARERA and the association.
- IX. Attach all the unsold inventories of the project, Mahira Homes 104 including 69 number of unsold flats and 224 number of commercial shops/ units, so that further diversion of funds can be stopped.
- X. Direct the Respondent Developer to provide the detailed and complete statement of accounts of each allottee along with his/ her complete address and phone numbers so that the remaining allottees can be enrolled as members of association.
- XI. Direct the Respondent Developer to resolve its disputes with the promoter no. 1/License Holders, Sh. Bhoop Singh, Sh. Nand Kishor and others so that the construction activities at the project site are not delayed or hampered.
- XII. Direct the respondent to pay legal expenses of Rs. 5,00,000/- incurred by the complainant association for filing and pursuing the present case.

BRIEF OF THE MISCELLANEOUS APPLICATION NO. 84/2023

A miscellaneous application was filed under complaint no. 1304-2023 wherein following reliefs were sought



- i. Direct the respondent Developer to restore the unit no. T5- 1502 of Mr. Kamal Bhardwaj which was cancelled by respondent on 12.05.2023.
- ii. To initiate penal proceedings under section 63 of the Act, 2016 against respondent developer for disobeying and non-compliance of orders and directions of the Authority.

BRIEF OF THE SUBMISSIONS MADE BY THE RESPONDENT/PROMOTER.

The respondent has made following submissions in the application for dismissal of complainant or to adjourn the complainant sine die to await the outcome of proceedings before DTCP.

1. That the present complaint has been filed by complainant purporting to be an association established under the provisions of the Haryana Registrations and Regulations of Societies Act, 2012. Through this complaint, the complainant association is seeking various remedies including but not limited to, preventing the respondent from cancelling the allotment of allottees who have paid 25% amount, restrain respondent from raising any further demands, mandating the respondent to complete the projects construct and direct the respondent to construct the project and requiring payment to be made in accordance with the construction-linked plan.
2. That the Authority has previously taken suo-motu cognizance of the project's status and the interest of the allottees in suo-moto complaint no. 2645 of 2022, titled "Neeraj Gautam vs Czar Buildwell Private Limited". Several orders have been issued by the Authority overseeing the construction progress of the project, ensuring compliance with RERA provisions and addressing other pertinent matters. Therefore, the initiation of the present complaint is unnecessary.
3. That the respondent is engaged in the construction of two affordable projects, aside from the subject project. Other two projects situated in Sector 63A and 95, Gurugram. Furthermore, an associated company, Mahira Buildtech Private Limited is overseeing the development of the project in Sector 103. On 07.07.2022, the Senior Town Planner of the Town and Country Planning Department, Gurugram Haryana issued directives restraining both the respondent and its associate company, Mahira Buildtech Private Limited from collecting instalments and imposing interest penalties from the allottees in the aforementioned projects. Additionally, both entites were prohibited from cancelling any unit until the completion of the project in accordance with the construction-linked plan.

4. Subsequently, the Town and Country Planning Department issued an order dated 26.08.2022, granting the coloniser's request to raise demands in accordance with the original payment plan. However, this allowance was subject to several conditions: firstly, the coloniser must submit detailed construction status reports of four projects, including the present one, during review meetings called by the department; secondly, they must provide details of allottee cancellations due to non-payment of demands upon request by the department; thirdly, the projects must be delivered within the stipulated time frame as per the affordable group housing policy 2013, amended periodically; and fourthly, strict adherence to the guidelines of the affordable housing policy 2013, also amended periodically, is required.
5. Further, against the aforementioned order dated 26.08.2022, issued on 29.8.2022, allottees of the projects situated in Sector 63A and 95 lodged a writ petition, namely CWP-22104 of 2022 and 22744 of 2022, before the Hon'ble Punjab and Haryana High Court. However, due to a representation filed by one of the allottees/petitioners before the Director of Town and Country Planning, Haryana, the Hon'ble High Court declined to intervene. Instead, the petition was disposed of with liberty granted to the petitioners to submit an appropriate representation before the Director, Town and Country Planning, Haryana, contesting the order dated 26.08.2022. Additionally, the High Court directed the Director to promptly review such representation, along with any prior submissions, and issue a suitable order accordingly.
6. That in adherence to the directive issued by the Hon'ble High Court, the office of the Director of Town and Country Planning, Haryana, has been reviewing representations submitted by allottees and conducting hearings on the subject matter. Therefore, initiating another complaint on the same issues and seeking identical reliefs, when the matter is already under consideration by both the Director, Town and Country Planning, Haryana, and this Hon'ble Authority in Suo Motu complaint No. 2645 of 2022 titled Neeraj Gautam Vs Czar Buildwell Private Limited, would serve no useful purpose. The ongoing proceedings before the Director, Town and Country Planning, Haryana, were duly noted by this Hon'ble Authority during the proceedings of Suo Motu complaint No. 2645 of 2022, with oral observations made that the parties would be bound by the decision taken by the DTCP. The complainant has itself filed an application requesting the consolidation of its complaint with Suo Motu complaint No. 2645 of 2022.
7. That the initiation of the current complaint by an association purporting to represent the allottees in the project is not only unnecessary and unwarranted

but also risks causing unnecessary confusion and a proliferation of legal actions. It would serve the interests of justice to adjourn the present complaint indefinitely to await the decision of the Director of Town and Country Planning, Haryana. Alternatively, the complainant should be directed to submit its representation before the Director, Town and Country Planning, Haryana, which will be duly considered alongside other representations in accordance with the directive issued by the Hon'ble Punjab and Haryana High Court.

Following the above pleadings made by both the parties and considering the available record, the Authority issues following direction with respect to complaint no. RERA-GRG-1304-2023:

1. **Relief sought:** Direct the respondent developer not to cancel any units of the allottees who have paid two instalments; 5 % at the time of booking and 20% at the time of draw, as per the Haryana Affordable Housing Policy, 2013, as presently (march, 2023), just excavation works are being carried out at the site, whereas the Environment Clearance was granted to the Respondent Developer on 27.04.2022, and first draw was conducted by the respondent developer on 03.12.2021.

Direction: In the hearing dated 13.02.2023 in the suo-motu complaint no. RERA-GRG-2645-2022, the respondent developer (M/s Czar Buildwell Pvt. Ltd.) has already been directed to not to cancel any allotment where initial allotment price (25%) has already been received. Therefore, no further directions pertaining to the same are required to be issued.

2. **Relief sought:** Direct the Respondent Developer not to raise further instalments from the allottees till the proportionate construction is completed at site.
3. **Relief sought:** Direct the Respondent Developer to seek payment from the allottees as per the Construction Linked Payment Plan as per amendment in the Affordable Housing Policy, 2013 via memo No. PF-27-III/2021/28851 dated 16.11.2021 issued by the Town and Country Planning Department and as per the HARERA's order dated 22.08.2022.

The above-mentioned reliefs sought are being taken together being similar and inter-connected.

Direction: The Authority, during its proceedings dated 22.08.2022 has already directed the promoter to adhere to construction linked payment plan. But, the payment plan in affordable group housing projects is governed by the Affordable Group Housing Policy, 2013 amended time to time and relates to

the Department of Town and Country Planning. The Director, Town and Country planning, vide its order dated 26.08.2022 had accepted the request of the colonizer to allow raising demand as per original payment plan in their ready launched projects i.e., LC-4498, LC-3759, LC-3772 & LC-4178 subject to certain terms and conditions. Hence, any relief with respect to the same may relates to the Department of Town and Country Planning, Haryana being administrative department for Affordable Group Housing Policy, 2013.

4. **Relief sought:** Direct the Respondent Developer to execute the Builder Buyer Agreement with all the allottees as prescribed in the Real Estate (regulation and Development) Act, 2016 and Rules, 2017.

Direction: In the order dated 22.08.2022, the promoter has already been directed to enter into an agreement for sale with the allottees within three months as prescribed in the Haryana Real Estate (Regulation and Development) Rules, 2017, and amended as per requirements and approved by the Authority. Therefore, no further directions pertaining to the same are required to be issued.

5. **Relief sought:** Develop/ evolve a mechanism/system/method to complete the project, Mahira Homes 104, Sector 104, Gurugram by involving the complainant association, HARERA, Gurugram, Government Authorities like Haryana Shehri Vikas Pradhikaran (HSVP) or Housing Board, Haryana or HSIIDC or the Town and Country Planning Department or any Government institute/ body/ authority or any other private developer which may be helpful in completing the project, at the costs and expenses of the Respondent and direct the Respondent to reimburse all extra costs and expenses that the allottees/ members of the complainant association may incur in completing the remaining development works, and in addition, pay to the allottees/ members of the complainant association the delay possession interest that is payable to the Allottees under section 18 of the Act, 2016, read with Rules 15 and 16 of the Rules, 2017.
6. **Relief sought:** Direct the Respondent Developer to conduct construction at the project site, Mahira Homes 104 in full swing, engaging large number of work force and not at a snail's speed, which is going on currently.

The above-mentioned reliefs sought are being taken together being similar and inter connected.

Direction: Direction: The Authority has already initiated action in terms of above act in Suo-moto complaint GRG-2645-2022 and a show cause notice dated 21.02.2024, has been issued to the respondent/promoter, indicating the

initiation of proceedings for the revocation of its project registration and same is scheduled for 11.03.2024 during which the Authority will deliberate on the appropriate measures to be taken against the promoter in accordance with the section 8 of the Act, 2016. Section 8 empowers the Authority to consult with Government and take necessary action to address violations and ensure compliance. Additionally, the Authority is leveraging the provision outlined in Rule 19 of The Haryana Development and Regulation of Urban Areas Act, 1976 to facilitate the completion of project post-cancellation of the builder's licence or revocation of registration. The relevant part of Rule is provided as under:
The relevant part of Rule is provided as under:

19. Action to be taken after cancellation of licence.—

(1) Upon cancellation of the licence, the entire land/ building of the colony shall be deemed to vest with the Government. The Director for the purpose of taking possession or control of the assets, request, in writing, to the District Magistrate within whose jurisdiction such licenced land/building is situated, to enforce complete ban on further alienation of assets by the licensee and take possession thereof, and the District Magistrate shall, on such request being made to him hand over the possession of such land/building to the officer designated by the Director for the purpose;

(2).....

(3).....

(4).....

(5).....

Provided that the Government may decide to hand-over the colony to any State agency including but not limited to Haryana Shahri Vikas Pradhikaran or Haryana State Industrial and Infrastructure Development Corporation Ltd etc to take charge of all the assets and liabilities of the project and honour all such existing contractual obligations of the defaulting licensee, either before or after going through the bidding process:

.....

(6). Upon signing of a contract for taking over of the colony on as-is-where-is basis, by the Director with the successful bidder, the ownership and possession of land shall be got transferred in favour of such bidder, who shall for all intents and purposes be the colonizer.

(7). Notwithstanding sub-rules (2), (3), (4) and (5), in case all attempts to revive the project fails, the project may be scrapped and the outstanding dues of the Government as well as payments made by the allottees to the colonizer may be recovered through sale of assets of the colonizer as arrears of land revenue. In case the recovered amount is less than the combined figure of all liabilities, the amount shall be distributed proportionately among all such stakeholders. However, any excess recovery shall be deposited in the Government treasury.

In terms of relief for delay possession interest, the Authority is empowered to order delay possession interest to the affected allottees under the Act of 2016. The relevant part of section is reproduced below.

18. Return of amount and compensation.

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

*(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.*

(2)

(3)

The aggrieved allottees may file complaint u/s 31 of the Act, 2016 with the Authority to seek relief in terms of provisions u/s 18 of the Act, 2016.

7. **Relief sought:** Direct respondent to take back around 38 crores given to its sister concerns and related parties, Mahira Buildtech Pvt. Ltd., Mahira Homes Pvt. Ltd., Axiom Properties Pvt. Ltd., Aranya Infrastructure Pvt. Ltd., Project MH 63A and Mr. Sikander Singh and deposit this amount into the Escrow account
8. **Relief sought:** Direct the Respondent Developer to open an escrow account and deposit around 38 crores with signatory of representatives of the Hon'ble HARERA and the association.

The above-mentioned reliefs sought are being taken together being similar and interconnected.

Direction: In the order dated 22.08.2022, the promoter has already been directed to bring back the unauthorized withdrawn amount and to deposit the loan made to its group companies and associates and other non- project related withdrawals to the RERA account within six months. On failure of the promoter, the Authority has already initiated legal by lodging FIR action against the promoter.

9. **Relief sought:** Attach all the unsold inventories of the project, Mahira Homes 104 including 69 number of unsold flats and 224 number of commercial shops/ units, so that further diversion of funds can be stopped.

Direction: In the order dated 10.06.2022, the Authority has restrained the promoter from creating any third- party right by way of mortgage/ loan or any other manner on the project land, sold and unsold units further. Therefore, no further directions pertaining to the same are required to be issued.

10. **Relief sought:** Direct the Respondent Developer to provide the detailed and complete statement of accounts of each allottee along with his/ her complete

address and phone numbers so that the remaining allottees can be enrolled as members of association.

Direction: The list of allottees is already available on the website of TCP. Contact address, payment made by each allottees and phone numbers of allottees of the projects relates to third party right information and are not available with the Authority. However, as per section 11(4)(e) of the Act of 2016, " The promoter shall enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable: provided that in absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case maybe, in the project." The promoter has already been directed to comply with the same in the hearing dated 10.04.2023

11. **Relief sought:** Direct the Respondent Developer to resolve its disputes with the promoter no. 1/ License Holders, Sh. Bhoop Singh, Sh. Nand Kishor and others so that the construction activities at the project site are not delayed or hampered.

Direction: The matter of dispute between the Developer and the promoter no. 1/ License Holders, Sh. Bhoop Singh, Sh. Nand Kishor and others pertain to the licencing Authorities (Director Town and Country Planning) or civil court and any relief in this regard may be sought from the competent Authority.

12. **Relief sought:** Direct the respondent to pay legal expenses of Rs. 5,00,000/- incurred by the complainant association for filing and pursuing the present case.

Direction: The complainant association is seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra), has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.



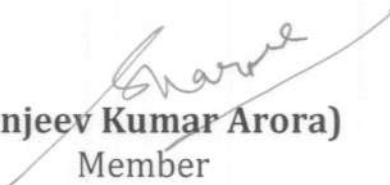
Relief wise order with respect to application no. MA/84/2023 is as follows:

1. **Relief sought:** Direct the respondent Developer to restore the unit no. T5-1502 of Mr. Kamal Bhardwaj which was cancelled by respondent on 12.05.2023.

Direction: In the hearing dated 13.02.2023 in the suo-motu complaint no. RERA-GRG-2645-2022, the respondent developer (M/s Czar Buildwell Pvt. Ltd.) was already directed to not to cancel any allotment where initial allotment price (25%) has already been received. Despite giving specific directions to the respondent not to cancel any allotment, the unit was cancelled and hence cancellation requested to order of Authority is not valid and is set aside.

2. **Relief sought:** To initiate penal proceedings under section 63 of the Act, 2016 against respondent developer for disobeying and non-compliance of orders and directions of the Authority.

Direction: The Authority has already initiated various penal proceedings against the promoter, including lodging an FIR with the police department for the unlawful withdrawal of deposits made by the allottees. Necessary follow-up actions are being undertaken by the Authority in accordance with the provisions of the law.


(Sanjeev Kumar Arora)
Member


(Ashok Sangwan)
Member


(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram
Date 09.05.2023